

THIS DISPOSITION IS NOT CITABLE AS  
PRECEDENT OF THE TTAB

JULY 9, 98

U.S. DEPARTMENT OF COMMERCE  
PATENT AND TRADEMARK OFFICE

---

Trademark Trial and Appeal Board

---

Seenergy Foods, Inc.  
v.  
Lico Brands, Inc.

---

Opposition No. 98,146  
to application Serial No. 74/433,052  
filed on September 7, 1993

---

Jess M. Collen of McGlew & Tuttle, P.C. for Seenergy Foods,  
Inc.

Rosemary S. Tarlton of Howard, Rice, Niemerovski, Canady,  
Falk & Rabkin for Lico Brands, Inc.

---

Before Quinn, Hairston and Walters, Administrative Trademark  
Judges.

Opinion by Hairston, Administrative Trademark Judge:

Lico Brands, Inc. seeks registration of the mark  
CASALINGA for "canned goods, namely, canned tomatoes and  
tomato based food sauces."<sup>1</sup>

Registration has been opposed by Seenergy Foods, Inc.  
on the grounds that opposer is the owner of the mark

---

<sup>1</sup> Application Serial No. 74/433,052 filed September 7, 1993, and  
based on a bona fide intention to use the mark in commerce. The  
English translation of CASALINGA is "homemade" or "homestyle."

**Opposition No. 98,146**

CASALINGA and design for a variety of food products; that opposer's application Serial No. 74/576,969 to register this mark has been refused in view of applicant's application; that applicant's mark, if used on the identified goods, so resembles opposer's mark, as to be likely to cause confusion; that applicant has not used its mark in commerce prior to opposer's date of first use; and that applicant's mark is merely descriptive of its goods.

Applicant, in its answer, admits that confusion is likely from contemporaneous use of the marks, but denies the remaining allegations in the notice of opposition.

The record consists of the pleadings; the file of the involved application; and opposer's notice of reliance on what appears to be the results of a search of an on-line Italian dictionary; a newspaper excerpt; and a copy of a document apparently retrieved from a search of the Internet. Only applicant filed a brief. An oral hearing was not requested.

As plaintiff in this proceeding, it was incumbent upon opposer to establish not only its standing, but with respect to the claim of likelihood of confusion, its priority; and with respect to the claim of mere descriptiveness, to present facts and circumstances which would tend to show that CASALINGA immediately describes an ingredient, quality,

characteristic, or function of applicant's goods. The materials submitted by opposer under notice of reliance are wholly inadequate for any of these purposes.<sup>2</sup> In view thereof, and since opposer has offered no testimony or other evidence to establish its standing, priority or that CASALINGA is merely descriptive of applicant's goods, opposer has failed to prove its case.

Decision: The opposition is dismissed with prejudice.

T. J. Quinn

P. T. Hairston

C. E. Walters  
Administrative Trademark  
Judges, Trademark Trial and  
Appeal Board

---

<sup>2</sup> We should add that opposer failed to indicate the general relevance of these materials, and the relevance thereof is not readily apparent from the text of the materials.